

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of:)	
)	
<u>Gutta et al.</u>)	
)	
Serial No.: 10/014,194)	Group Art Unit: 2623
)	
Filed: November 13, 2001)	Examiner: Hunter B. Lonsberry
)	
For: METHOD AND APPARATUS FOR)	
RECOMMENDING ITEMS OF)	
INTEREST TO A USER BASED ON)	
RECOMMENDATIONS FOR ONE)	Board of Patent Appeals and
OR MORE THIRD PARTIES)	Interferences
)	
Confirmation No.: 3031)	

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APPEAL BRIEF UNDER 37 C.F.R. § 41.37

In support of the Notice of Appeal filed herewith, and pursuant to 37 C.F.R. § 41.37, Appellants present this appeal brief in the above-captioned application.

This is an appeal to the Board of Patent Appeals and Interferences from the Examiner's final rejection of claims 1, 3-10 and 12-19 in the Final Office Action dated May 17, 2007. The appealed claims are set forth in the attached Claims Appendix.

1. Real Party in Interest

This application is assigned to Koninklijke Philips Electronics N.V., the real party in interest.

2. Related Appeals and Interferences

There are no other appeals or interferences that would directly affect, be directly affected, or have a bearing on the instant appeal.

3. Status of the Claims

Claims 1, 3-10 and 12-19 have been rejected in the Final Office Action. Claims 2, 11 and 20 have been cancelled. The final rejections of claims 1, 3-10 and 12-19 are being appealed.

4. Status of Amendments

All amendments submitted by Appellants have been entered.

5. Summary of Claimed Subject Matter

The present invention, as recited in independent claim 1, is directed toward a method for recommending one or more available items to a user comprising the following steps. The first step involves generating a user recommendation score for at least one of said available items that reflect a history of selecting said one or more items by said user. The second step being to receive a selection of at least one third party recommender (120) from said user. (See Specification p. 4, ll. 16-20; Fig. 1). Followed by selecting from said at least one selected third party recommender (120) at least one third party recommendation for said at least one of said available items that reflects a history of selecting said one or more items by said at least one selected third party recommender (120). (See Specification p. 4, l. 30 – p. 5, l. 6; Fig. 1). Then generating a third party recommendation score for said at least one of said available items based on said selected third party recommendation. Finally, calculating an adjusted recommendation score for said user, wherein said user recommendation score adjusted based on said third party recommendation score. (See Specification p. 5, ll. 5-7; Fig. 1).

The present invention, as recited in independent claim 10, is directed toward a system for recommending items available to a user comprising a memory (160) for storing readable code and a processor (150). (See Specification p. 5, ll. 13-15; Fig. 1). The processor processing the steps of first generating a user recommendation score for at least one of said available items that reflect a history of selecting said one or more items by said user. The second step being to receive a selection of at least one third party recommender (120) from said user. . (See Specification p. 4, ll. 16-20; Fig. 1). Followed by selecting from said at least one selected third party recommender (120) at least one third party recommendation for said at least one of said available items that reflects a history of selecting said one or more items by said at least one selected third party recommender (120). (See Specification p. 4, l. 30 – p. 5, l. 6; Fig. 1). Then generating a third party recommendation score for said at least one of said available items based on said selected third party recommendation. Finally, calculating an adjusted recommendation score for said user, wherein said user recommendation score adjusted based on said third party recommendation score. (See Specification p. 5, ll. 5-7; Fig. 1).

The present invention, as recited in independent claim 19, is directed toward an article of manufacture for recommending on or more available items to a user comprising a computer readable medium having a computer readable code means embodied thereon. (See Specification p. 5, ll. 13-17; Fig. 1). Said computer readable program code means comprising the steps of first generating a user recommendation score for at least one of said available items that reflect a history of selecting said one or more items by said user. The second step being to receive a selection of at least one third party recommender (120) from said user. (See Specification p. 4, ll. 16-20; Fig. 1). Followed by selecting from said at least one selected third party recommender (120) at least one third party recommendation for said at least one of said available items that reflects a history of selecting said one or more items by said at least one selected third party recommender (120). (See Specification p. 4, l. 30 – p. 5, l. 6; Fig. 1). Then generating a third party recommendation score for said at least one of said available items based on said selected third party recommendation. Finally, calculating an adjusted recommendation score for said user, wherein said user recommendation score adjusted based on said third party recommendation score. (See Specification p. 5, ll. 5-7; Fig. 1).

6. Grounds of Rejection to be Reviewed on Appeal

I. Whether claims 1, 3-7, 9, 10, 12-16, 18 and 19 are unpatentable under 35 U.S.C. § 103(a) over U.S. Patent Publication No. 2002/0174429 to Gutta et al. (hereinafter “Gutta”) in view of U.S. Patent No. 5,790,935 to Payton (hereinafter “Payton”) in further view of U.S. Patent No. 6,637,029 to Maissel et al. (hereinafter “Maissel”).

II. Whether claims 8 and 17 are unpatentable under 35 U.S.C. § 103(a) over Gutta, Payton, Maissel, in further view of U.S. Patent No. 5,754,939 to Herz et al. (hereinafter “Herz”).

7. Argument

I. The Rejection of Claims 1, 3-7, 9, 10, 12-16, 18 and 19 Under 35 U.S.C. § 103(a) Over Gutta in view Payton in further view of Maissel Should Be Reversed.

A. The Examiner’s Rejection

In the Final Office Action, the Examiner rejected claims 1, 3-7, 9, 10, 12-16, 18 and 19 under 35 U.S.C. § 103(a) as being unpatentable over Gutta in view of Payton in further view of Maissel. (See 05/17/07 Office Action, p. 3).

Gutta is directed toward a system that relates solely to the *generation* of a recommendation score. Specifically, Gutta teaches obtaining recommendation scores (“S₁”, “S₂”, and “S₃”) from at least three program recommenders, and computing a combined recommendation score (“C”) by applying a voting process. The system presents the recommended score C to a user to enable the user to select a television program of interest. (See Gutta Paragraph 0016). Gutta goes on to describe the process of providing recommendation scores S₁, S₂, and S₃, such as through the use of feedback, implicit and explicit data. (See Gutta Paragraph 0035). Gutta simply provides the user with an aggregate recommendation score from recommenders without applying any consideration to a user’s personal interest.

Payton generally refers to the virtual delivery of on-demand digital information. Specifically, Payton teaches a collaborative filtering system that synthesizes the preferences of all of the subscribers and predicts the items the subscribers might like. (See Payton, col. 4, lines 7-14). The collaborative filtering system produces a list of recommended items based on a subscriber's rating vector and the subscriber's general likes and dislikes. (See Payton, col. 5, lines 6-21). To request an item, the subscriber interface displays this list of recommended items to the subscriber, wherein the subscriber can select one of the items or request a menu of available items. (See Payton, col. 6, lines 26-31).

Maissel generally refers to an apparatus for allegedly improving an electronic program guide for use in a television system. Specifically, the apparatus may allow the viewer to edit information in a viewer preference profile. (See Maissel, col. 12, ll. 46-59). The viewer is allowed to provide information on programs the viewer prefers to view or does not prefer to view. (See Maissel, col. 12, ll. 46-59). One of the options disclosed is to allow the viewer to instruct the apparatus to include (or not include) programs recommended by one or more critics in the program guide. (See Maissel, col. 13, ll. 5-7). In other words, the viewer, according to Maissel, may choose to accept all programs recommended by one or more critics, or, alternatively, reject all programs recommended by one or more critics.

B. The Cited Patents Do Not Disclose Calculating An Adjusted Recommendation Score For Said User, Wherein Said User Recommendation Score Is Adjusted Based On Said Third Party Recommendation Score, As Recited In Claim 1.

Claim 1 recites, "calculating an adjusted recommendation score for said user, wherein said user recommendation score is adjusted based on said third party recommendation score." The Examiner states that this recitation of claim 1 is silent with regards to adjusting the score of the same item and is disclosed in Payton at column 5, lines 6-21 and column, lines 26-40. (See 05/17/07 Office Action, pp. 3-4). Appellants respectfully disagree.

Initially, the Examiner asserts that the “claims are silent with regards to adjusting the score of the same item.” However, the adjusted recommendation score recited in claim 1 relates specifically to the item selected by the user. Claim 1 clearly recites in the first element “generating a user recommendation score for at least one of said available items.” Claim 1 goes on to recite, “selecting... at least one third party recommendation for said at least one of said available items.” That is, the one of the available items for which the user recommendation score was generated. Claim 1 continues to recite, “generating a third party recommendation score for said at least one of said available items.” Again, the same one of the available items initially recited. Finally, claim 1 recites, “calculating an adjusted recommendation score...wherein said user recommendation score is adjusted based on said third party recommendation score.” That is, the recommendation score for the one of the available items is adjusted based on the third party recommendation score for the one of the available items. Thus, appellants respectfully submit that the Examiner has not interpreted the claim correctly and that claim 1 is not silent with regards to adjusting the score of the same item.

The Examiner uses this incorrect interpretation to assert that claim 1, which recites, “calculating an adjusted recommendation score for said user, wherein said user recommendation score is adjusted based on said third party recommendation score,” is taught by Payton. Payton, however, does not adjust its recommendation score based on an individually selected item from the third-party recommender. Payton contains a subscriber profile that includes a rating vector. The rating vector has a length equal to the total number of items stored on the central server. (See Payton col. 8, ll. 51-53). The rating vector is created from two different rating procedures. First, all the items for which the user has previously requested and rated, are entered into the vector and rated based on the user’s rating. (See Payton col. 5, ll. 6-9). Second, if a user has not rated an item that is contained within the vector, the system places a rating based on the ratings from other subscribers in the user’s subscriber group. (See Payton col. 8, ll. 55-58). Payton does not adjust any user rating for an item based on a rating from third-party users for that item. However, as described above, claim 1 specifically recites adjusting an initial user recommendation score for an item based on a third party recommendation score for the item. Thus, it is respectfully submitted that Payton does not teach or suggest “calculating an

adjusted recommendation score for said user, wherein said user recommendation score is adjusted based on said third party recommendation score,” as recited in claim 1.

Furthermore, the Examiner does not assert and the Applicants respectfully submit that Gutta and Maissel, either alone or in combination, does not cure the above-described deficiencies of Payton with respect to claim 1. Accordingly, Appellants respectfully request that the Board overturn the Examiner’s rejection of claim 1. Because claims 3-7 and 9 depend from and, therefore, include all the limitations of claim 1, it is respectfully submitted that these claims are also allowable for at least the reasons stated above with respect to claim 1.

Independent claim 10 recites, “calculate an adjusted recommendation score for said user, wherein said user recommendation score is adjusted based on said third party recommendation score.” Thus, it is respectfully submitted that this claim is also allowable for at least the same reasons stated above with respect to claim 1 and the Board should overturn the Examiner’s rejection of this claim. Because claims 12-16 and 18 depend from and, therefore, include all the limitations of claim 10, it is respectfully submitted that these claims are also allowable for at least the reasons stated above with respect to claim 10.

Independent claim 19 recites, “a step to calculate an adjusted recommendation score for said user, wherein said user recommendation score is adjusted based on said third party recommendation score.” Thus, it is respectfully submitted that this claim is also allowable for at least the same reasons stated above with reference to claim 1 and the Board should overturn the Examiner’s rejection of this claim.

II. The Rejection of Claims 8 and 17 Under 35 U.S.C. § 103(a) Over Gutta in view Payton in further view of Maissel in further view of Herz Should Be Reversed.

A. The Examiner's Rejection

In the Final Office Action, the Examiner rejected claims 8 and 17 under 35 U.S.C. § 103(a) as being unpatentable over Gutta in view of Payton in further view of Maissel in further view of Herz. (See 05/17/07 Office Action, p. 7).

Gutta was discussed in detail above

Payton was discussed in detail above.

Maissel was discussed in detail above.

Herz generally relates to customized electronic identification of desirable objects, such as news articles in an electronic media environment. The system constructs a target profile for each object such as the number of times a word appears within an article. The system then compares target profiles against a user's target profile and generates a user-customized rank listing target objects most likely to be of interest to the user. Users' target profiles can then be used to efficiently organize the distribution of information on a large scale. Finally, a cryptographic system can be used to ensure the privacy of a user's profile. (See Herz Abstract).

B. The Cited Patents Do Not Disclose Calculating An Adjusted Recommendation Score For Said User, Wherein Said User Recommendation Score Is Adjusted Based On Said Third Party Recommendation Score, As Recited In Claim 1.

Applicants submit that Herz does not cure the above-described deficiencies of Gutta, Payton, and Maissel with respect to claims 1 and 10. Because claim 8 depends from and, therefore, includes all the limitations of claims 1, it is respectfully submitted that this claim is also allowable for at least the reasons stated above with respect to claim 1. Because claim 17

depends from and, therefore, includes all the limitations of claims 10, it is respectfully submitted that this claim is also allowable for at least the reasons stated above with respect to claim 10.

Conclusion

For the reasons set forth above, Appellants respectfully request that the Board reverse the rejection of the claims by the Examiner under 35 U.S.C. § 103(a), and indicate that claims 1, 3-10 and 12-19 are allowable.

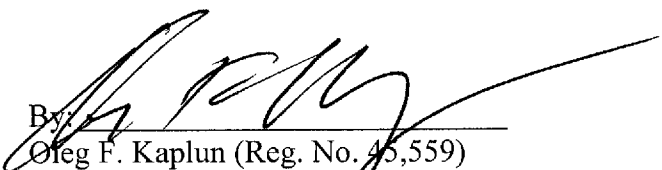
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CLAIMS APPENDIX

1. (Previously Presented) A method for recommending one or more available items to a user, comprising the steps of:
 - generating a user recommendation score for at least one of said available items that reflects a history of selecting said one or more items by said user;
 - receiving a selection of at least one third party recommender from said user;
 - selecting from said at least one selected third party recommender at least one third party recommendation for said at least one of said available items that reflects a history of selecting said one or more items by said at least one selected third party recommender;
 - generating a third party recommendation score for said at least one of said available items based on said selected third party recommendation; and
 - calculating an adjusted recommendation score for said user, wherein said user recommendation score is adjusted based on said third party recommendation score.
2. (Canceled)
3. (Previously Presented) The method of claim 1, wherein said generating a third party recommendation score step further comprises the step of averaging a plurality of third party recommendation scores for said at least one of said available items.
4. (Previously Presented) The method of claim 1, wherein said selecting step further comprises the step of receiving said third party recommendation score from a remote recommender.
5. (Previously Presented) The method of claim 4, wherein said received third party recommendation includes an indication of whether said corresponding recommended item was selected by said selected third party recommender.
6. (Original) The method of claim 1, wherein said one or more items are programs.
7. (Original) The method of claim 1, wherein said one or more items are content.

8. (Original) The method of claim 1, wherein said one or more items are products.
9. (Previously Presented) The method of claim 1, wherein said selected third party recommender is an individual.
10. (Previously Presented) A system for recommending one or more available items to a user, comprising:
- a memory for storing computer readable code; and
 - a processor operatively coupled to said memory, said processor configured to:
 - generate a user recommendation score for at least one of said available items that reflects a history of selecting said one or more items by said user;
 - receive a selection of at least one third party recommender from said user;
 - select from said at least one selected third party recommender at least one third party recommendation for said at least one of said available items that reflects a history of selecting said one or more items by said at least one selected third party recommender;
 - generate a third party recommendation score for said at least one of said available items based on said selected third party recommendation; and
 - calculate an adjusted recommendation score for said user, wherein said user recommendation score is adjusted based on said third party recommendation score.
11. (Canceled)
12. (Previously Presented) The system of claim 10, wherein said processor is further configured to average a plurality of third party recommendation scores for said at least one of said available items
13. (Original) The system of claim 10, wherein said system receives said third party recommendation score from a remote recommender.

14. (Previously Presented) The system of claim 13, wherein said received third party recommendation includes an indication of whether said corresponding recommended item was selected by said selected third party recommender.

15. (Original) The system of claim 10, wherein said one or more items are programs.

16. (Original) The system of claim 10, wherein said one or more items are content.

17. (Original) The system of claim 10, wherein said one or more items are products.

18. (Previously Presented) The system of claim 10, wherein said selected third party recommender is an individual.

19. (Previously Presented) An article of manufacture for recommending one or more available items to a user, comprising:

a computer readable medium having computer readable code means embodied thereon, said computer readable program code means comprising:

a step to generate a user recommendation score for at least one of said available items that reflects a history of selecting said one or more items by said user;

a step to receive a selection of at least one third party recommender from said user;

a step to select from said at least one selected third party recommender at least one third party recommendation for said at least one of said available items that reflects a history of selecting said one or more items by said at least one selected third party recommender;

a step to generate a third party recommendation score for said at least one of said available items based on said selected third party recommendation; and

a step to calculate an adjusted recommendation score for said user, wherein said user recommendation score is adjusted based on said third party recommendation score.

20. (Canceled)

EVIDENCE APPENDIX

No evidence has been entered or relied upon in the present appeal.

RELATED PROCEEDING APPENDIX

No decisions have been rendered regarding the present appeal or any proceedings related thereto.